ARTICLES CON-
CERNING THE AV-
THORITIE OF IVSTICES OF
Peace and Constables, [illegible] within
the Kingdome of Scotland.

As the samine are allowed of by his Majestie, and his Majesties Privie Councell of the [illegible] Kingdome.

EDIN[illegible]

[illegible] THO[illegible]

INSTRUCTIONS TO THE COMMISSIONARS APPOINTED *for keeping of the* KINGS *Majesties Peace.*

THE COMMISSIONARS and IVSTICES of Peace at their first admittance vpon the Benche, shall giue the oath following;

YOW *shall sweare that you as one of the* Commissionars *and* Justices *of the Peace, within the Shyre of, &c. according to your knowledge, witt and power, shall doe equall right both to ritch and poore conforme to the Lawes and Customes of the Land and statutes thereof: And that you shall not be of counsell with any person in any quarrell or matter depending before you, and that you shall euery quarter keepe the Sessions, or oftner as you shall be requyred, not hauing any just impediment to the contrarie, and shall faithfullie*

fullie and truely diſcharge your duetie as a Juſtice *of his Majeſties Peace, and ſhall leaue nothing vndone that may tend to the preſervation of the ſame,* So helpe you GOD.

II.

ANY one *Iuſtice* ſhall haue power vpon complaint of any perſon being threatned and fearing to be wronged, to bind the partie complained vpon vnder ſuch a pecuniall ſoume to keepe the Peace as he ſhall thinke fitting: As alſwa to committ him vntill ſuretie be founden by him, (the ſaid complenant alwayes giueand his oath before the *Iuſtice* that he hes juſt cauſe to dread him harme) and all ſuch actes and bondes ſhall be keeped in recorde by him, and he ſhall make delyverie of the ſame to the Clerk of the Peace at the next Seſſions to be keept and regiſtrat by him.

III.

If any perſone being charged to make his appearance before a *Iuſtice* of Peace, and ſhall refuſe or delay without juſt cauſe: If the partie be a landed Gentle-man, then the *Iuſtice* whoſe command is contemned ſhall informe the ſame to ſome of the Lords of his Majeſties privie Councell, to the effect the partie of the qualitie foreſaid may be called and fyned for his diſobedience. And if the diſobeyar be of a meener degree, the *Iuſtice* ſhall hereby haue power to command the next Conſtable with aſſiſtance of the Countrie to bring any ſuch partie before him.

IIII.

Jf either Schiref or Baillie ſhall condemne any perſon in a *Blood-wyte*, or otherwiſe convict him in any paine proper for him to impone, the Juſtices ſhall haue no power of new to fyne that offender for that offence, but if they ſhall finde the partie not condinglie puniſhed, in regarde of the offence committed, they ſhall then informe his Majeſties Councell thereof.

Jf

V.

If either Schiref or Baillie, or their Deputes by colluſion with the delinquent ſhall ſuffer any perſon guiltie to be quyted and cleared by aſſiſe(the partie once cleared is not to be broght farther in queſtion before the Juſtices) but vpon their information the Judges are to be called, cenſured, and ſevearlie puniſhed by his Majeſties Councell.

VI.

The ſaids Juſtices ſhall hereby haue power to proceed in tryall vpon all perſons committing ryottes and breaking of the Kings Peace vnder the degree of Noble-men, Prelats, Counſellers and Senators of the Colledge of juſtice, and to puniſhe and fyne according to the qualitie of the cryme and eſtate of the offender; and concerning theſe perſons of heigher degree, the ſaids Commiſſionars and Juſtices ſhall vſe all their power conforme to their commiſſion and inſtructions for preventing and ſtaying of the ryottes, commanding the attempters in his Majeſties Name to ceaſe and to finde caution for keeping of the peace, and for their appearance before his Majeſties Councel.

VII.

The ſaids Commiſſionars and Juſtices ſhall put his Majeſties actes of Parliament to due and full execution againſt maſterfull beggars and vagabounds, ſolitarie and ydle men and wemen, lurking in ail-houſes, tyed to no certeine ſervices, deſigned, reput and halden as vagabounds, and they ſhal puniſhe and fyne their reſetters accordinglie by competent paines.

VIII.

The Commiſſionars and Juſtices of peace are hereby authorized with power and authoritie to giue order (according as they ſhall thinke moſt convenient, and with leaſt greefe to the ſubjectes) for mending of all hie wayes and common paſſages to or from any mercat towns within that Schyre; and ſhall call before them all ſuch perſons as ſhall ſtrate thoſe paſſages, or

otherwiſe ſhall make thoſe hie wayes, by any caſting of ditches or fouſſies through the ſame, to be in any ſort noyſome and troubleſome to paſſingers, and ſhall puniſhe and fyne them according to the qualitie of their offences.

IX.

The ſaids Commiſſionars and Juſtices of Peace ſhall put his Majeſties actes of Parliament to execution againſt the committers and deſtroyers of planting, green-wood, Orchardes, Yaires, Hainnings, breakers of Doucats and Cunninghares, ſteillers of Bees and Bee-skeps, vſeres of vnlawfull games with lying dogs, ſlayers of black fiſhe, and other fiſhe in forbidden tyme, foullers foulland in other mens lands, makers of mureburne and moſ-burne in forbidden tyme, and ſhall ſitt determine and proceed againſt them, conforme to the ſaids acts.

X.

The ſaids Commiſſionars and Juſtices ſhall put the actes of Parliament to execution againſt foreſtallers and regraters of mercats, and ſhall proceed againſt them accordinglie.

XI.

Becauſe there are ſundrie vnneceſſarie ail-houſes in the Countrie whilks are the reſet of ſundrie maſterles men and rebelles at the Horne, and others perſons guiltie of divers crymes and are the cheefeſt occaſion of the ſtouthes, reiffes and pykrie committed alſwell in the day as night vpon his Majeſties good ſubjectes travelling in the Countrie. The ſaids Commiſſionars and Juſtices ſhall take order with them, and miniſter juſtice vpon them conforme to the Lawes of the Realme.

XII.

Whereas the workmanſhip of ſundrie Craftſ-men in burgh or landward is neither ſufficient, nor doth it keep any conſtant and reaſonable pryce, that ſo the craftſ-men may ſell with advantage eneugh, but they exact of the Lieges what they pleaſe Therefore the ſaids Commiſſionars of the Peace hes power hereby

hereby to take order therein and redres the ſame as accords.

XIII.

The Commiſſionars and Juſtices of Peace ſhall put his Majeſties acts of Parliament made againſt Malt-makers, whereby they are ordeined to put their malt to the mercat, and to ſell the ſame at the tymes preſcryved in the ſaids actes, and that their malt be ſufficient ſtuffe, and anent the pryce of their malt, to due and full execution in all poyntes conforme to the tennor thereof, and accordinglie to puniſhe the tranſgreſſers and violaters of the ſaids acts.

XIIII.

The ſaids Commiſſionars and Juſtices of Peace ſhal put his Majeſties acts of Parliament to execution againſt ſetters of Cruves and Netts in dammes & waters hauing and keeping of Cruves Yares, ſlayers and deſtroyers of reed-fiſhe and ſmolts in forbidden tyme, and to proceed againſt them accordingly.

XV.

The ſaids Commiſſionars ſhall put his Majeſties act of Parliament to execution anent Meaſures, Weghtes and Metts, and conformitie thereof.

XVI.

The Commiſſionars and Juſtices of Peace ſhal according to their diſcretions appoynt pryces to be tane for any horſe or man for their paſſage over any Ferry in that Countie, and ſhall call and puniſhe all contraveinars.

XVII.

They ſhall take order that all Lipper-folks ſhall be ſequeſtrat and not ſuffered to haue reſet in any publict company, and ſhall ſet doun order for their entertainment, to be levayed out of the cuntrie in ſuch forme as they ſhall think meet with leaſt greefe and harme to the ſubjects.

XVIII.

They ſhall ſet doun order for governance in time of Plague

and

and to punishe severlie the disobeyers according to the qualitie of the delict.

XIX.

They shall appoint at their quarter Sessions to be keept in *August* and *Februar*, the ordinar hyre and and wages of Laborers Work-men and Servantes, and who shall refuse to serue vpon the pryce then set doun by them, shall be imprisoned, and [illegible]ished at the Justices discretions.

XX.

The Commissionars and Iustices of Peace in every county at their quarter Sessions, shall resolue what number of Iaylles or Prisons are fit and necessare to be in that Schyre, and the best and most commodious places for the same; and where either these Iayles be presentlie wanting, or otherwise not sufficient eneugh for conteining of Prisoners, and so requiring to be buildedor otherwise to be enlarged & amended, they shal conclude and resolue vpon a certaine summe of money, which may fullie perfite and accomplishe these workes, and then by distribution thereof according to their discretions, shall rate every sufficient person within the same shyre, either in land or goode to a certaine proportion of money, for building, enlarging or helping of the saids Prisons and Iayles, according to their means and abilities, and shall appoint Collectors for ingaddering of the same, of whom they shall take goode sureties for making due accompt and payment, and shall appoynte two or three of their owne number dwelling most neere to the place where the saids prisons are to be builded or repared, to haue the direction or charge of the saids workes, who vpon finishing thereof shall deliver in their accompts of the debursings to the whole Bench at their next sitting: And for recoverie and vplifting of all such summes that every one shall be assised vnto, The Lords of his Majesties Councell and Session shall direct summar charges of horning and poynding at the instance of such as shall be appointed

pointed collectors by the saids [illegible]ces.

XXI.

And becauſe there be a great many priſoners apprehended and committed, who hauing no meanes of their owne for their maintenance and entertainment, wil otherwiſe ſtarue and famiſhe before they can come to their tryell, who not-the-leſſe in regarde of the crymes they haue committed, can no way be put vnder ſurety, or otherwiſe in faults of leſſe conſequence are vnable to finde ſufficient caution to be made forth-command and anſwerable at the next Seſſion: Therefore it ſhall be lawful to the ſaids Commiſſionars and Iuſtices at their quarter Seſſions to rate every Paroche within the Shyre for a weeklie proportion for the entertainment of theſe poore priſoners, provyding they doe not exceed the ſumme of fiue ſhilling Scottes money at moſt, not vnder one ſhilling at leaſt, which ſummes ſhall be vp-lifted for that vſe by the Miniſter or Reader, who ſhall ſerue at euery Paroche, from ſuch Deacons who ſhall be appoynted to collect the ſame, and the ſaids ſummes to be delivered by the Conſtable of the Paroche at the quarter Seſſions in preſence of the whole Benche then conveined to ſuch perſons as the ſaids Iuſtices ſhall truſt there-with, and who accordingly ſhal make due accompt therof in paying the Iaylers ſuch raites as ſhall be allowed for the poore priſoners, and in making the reſt forth-comming for ſuch vſe and intent of the lyke nature, as the ſaids Juſtices ſhall appoint.

XXII.

All Magiſtrates of Burrowes and keepers of any Jayles or Priſons, ſhall receiue in their priſons all ſuch perſons as either ſhall be broght by Conſtables, or ſent vnto them by warrants, vnder the hand of any one Juſtice of peace.

XXIII.

The Commiſſionars and Juſtices of Peace ſhall heereby haue power to puniſh according to their diſcretions all delin-

quents vpon any of the penal ſtatutes before rehearſed, they being firſt tryed by a condigne aſſiſe of xiij or xv perſons and found guiltie, and are to impoſe ſuch puniſhments as in their judgment the qualitie of the treſpaſſe ſhall deſerue. But in all maters capitall they ſhall no way proceed without a ſpeciall direction and commiſſion ſent from the Councell to them, or any of them for that effect.

XXIIII.

They ſhall appointe a ſufficient collector for vp-lifting the fynes and penalties which ſhall be impoſed vpon any offender, and are to take caution of him for making due accompt.

XXV.

The ſaids fynes are to be made forth-comming, either to his Majeſties vſe, or to ſuch Lords of Regalitie, or other Lords Prelats, or ſmall Barons, as by their infeftment and heritable rights can juſtlie challange or clame any right to the ſame.

XXVI.

The Commiſſionars and Juſtices of Peace, induring the tyme of their Seſſions, ſhall haue for every day of their aboad, (ſo it doe not exceede the number of three dayes at the moſt at one tyme) allowed to each of them fouertie ſhillings Scots money daily, to be vp-lifted and payed by the Collector of the fynes, but neither Earle, Biſhoppe, Lord, Privie Counſeller, or Seſſionar ſhall haue any allowance; and all ſuch Juſtices as haue the benefite of that allowance, and ſhall be abſent from every ordinare quarter Seſſions, or when otherwiſe he is lawfullie requyred by the *Cuſtos Rotulorum* to any particular meeting ſhall incurre the penaltie of fourtie pounds Scots money, not being lawfullie excuſed, and the excuſe allowed by the reſt of the Juſtices there aſſembled.

XXVII.

It is alwayes conſidered that theſe allowances to the Commiſſionars of the peace, ſhall be ratablie vp-lifted of all fynes

fynes impoſed by them accreſſing alſwell to his Majeſtie, as to any other Lord or ſmall Barron what-ſome-ever.

XXVIII.

The Lords of Seſſion ſhall direct generall and ſummar charges of horning and poynding, at the inſtance of the Collector appoynted in every Countie, for ingaddering of all fynes and penalties what-ſo-ever incurred, upon one ſimple charge of fiftene dayes.

XXIX.

The Commiſſionars and Iuſtices at the end of every quarter Seſſion ſhall ſend to his Majeſties Councell, a Catalogue of all ſuch perſons as they haue either committed, or otherwiſe put vnder ſuretie, with a ſhort abreviat of the cauſe thereof, to the effect that there-vpon the Councell as they ſhall thinke meet, may returne vnto them againſt their next Seſſions, or to the *Cuſtos Rotulorum*, in the mean-whyle their farther direction

ANENT CONSTABLES, AND THEIR OFFICES.

THE Conſtables are to be made choiſe off by the Commiſſionars and Juſtices of peace in their quarter Seſſions through-out the whole Cuntry, two at leaſt in every Paroche, or moe according to their diſcretions, having conſideration of the qualitie thereof. In great townes likewiſe (not being Citties nor free Burghs) they are to appoint the number of Conſtables proportionallie to the greatnes thereof; but in all Burghs regall and free Citties, the Conſtables are to be choſen by the Magiſtrats of the ſame) and they are to indure, and to be changed from ſax moneths to ſax moneths.

II.

Any who ſhall refuſe to accept the charge, and not to giue his oath for duetifull execution thereof, ſhall be impriſoned and fined at the diſcretion of the Juſtices of peace at their next ſitting.

III.

The Conſtables ſhall take the Oath following.

YOV ſhall ſweare, that you ſhall faithfullie and truelie diſcharge your office of Conſtabularie within the Parochin of, &c. induring the tyme appoynted to you, and ſhall not for favour, reſpect or feare of any man, forbeare to do what becommeth you of your office, and aboue all things you ſhall regarde the keeping and preſerving of the Kings Majeſties Peace, and ſhall at every quarter Seſſions and meetings of Juſtices giue true and due information of any breach which hes bene made of his Majeſties Peace, within the bounds of your commandement, and ſhall no way hyde, cover, nor conceale the ſame, nor any of the proofes and evidences which you can giue for the cleering and prooving thereof, So helpe you GOD.

IIII.

Any of his Majeſties ſubjects who ſhall refuſe or delay to concurre with the Conſtable in executing of his office, ſhall be impriſoned and puniſhed by the Commiſſionars and Juſtices, or otherwiſe cenſured and ſeverely puniſhed by his Majeſties Councell, according to the qualitie of the offence.

V.

All the Conſtables, at the leaſt one of every Paroche, inſtructed with commiſſion to anſwer for the reſt within the ſame Paroche, ſhall attend at every quarter Seſſion, there to giue information of all ſuch miſdemanors as haue hapned in thoſe bounds

bounds ſince the laſt Seſſion, and otherwiſe to giue to the Bench farther ſatisfaction in any thing wherein they ſhall be required, and to receiue from the ſaids Commiſſioners at the end of the Seſſions ſuch orders and directions as they ſhall then enjoyne and appoynt them to doe.

VI.

A Conſtable may apprehend any ſuſpect man, who for the moſt part ſleepeth al day and walketh in the night, and cary him to the next Juſtice of peace, to finde ſovertie for his gude behaviour, or otherwiſe to be committed to priſon.

VII.

A Conſtable ſhall arreiſt any perſon (other then ſuch who in regarde of their office and charge are authorized to doe the ſame) who ſhall be found weiring Hagbutts, Piſtolets and Dags and ſhall cary them before a Commiſſionar of peace, who is either to take ſurety for their appearance the next Seſſion, or commit them priſoners vntill they doe the ſame.

VIII.

If any partie doe complaine to a Conſtable that he is threatned by an other, then ſhall the Conſtable apprehend the threatner, and cary him with the partie complenant before the next Commiſſionar of peace; and if he refuſe to goe, then ſhal they cary him to priſon.

IX.

Upon appearance of any fray or ſtur betwix parties, the Conſtable may take vnto him the aſſiſtance of his neighbours for ſundering of the parties: And if there be any harme done to the Conſtable, or any of his aſſiſtances by them who made affray, they ſhall be puniſhed by the Juſtices at the next ſitting.

X.

When one hath made an affray, and then fleeth to an houſe, the Conſtables may break open the doores thereof, and albeit he ſould flee further without the bounds of his charge, yet may the

the Conſtable follow and apprehend him in a freſh perſute.

XI.

Conſtables ſhall ſtay and arreiſt all vagabounds, ſturdie beggers and Egiptians, and cary them before the next Commiſſionar of peace, who ſhall take order for their committing or puniſhment, according to ſtatute of Parliament.

XII.

Conſtables ſhall arreiſt all idle perſons whom they know to haue no meanes to liue vpon, and yet will not be-take themſelues to any labor, trade or occupation, and ſhall cary them before a Commiſſionar of peace, who after examination, ſhall ether commit them or take ſuretie of them for their appearance at the next Seſſions.

XIII.

Any Conſtable having apprehended a perſon guiltie and culpable of ſlaughter, murther, thift, or any other capital cryme what-ſo-ever, ſhall then requyre his neighbours to aſſiſt for ſaif convoying of ſuch perſons to the next Commiſſionar who ſhal then examine the party, and ſet down his depoſition in wryting to be ſhowne at the next Seſſions, and there-after ſhall ſend him ſaffic back to priſon. And if any Nobleman, Prelat or ſmall Baron, or any in their names having power, ſhall acclame the right of juriſdiction to proceed againſt the delinquent. The ſaid Juſtice ſhall receiue ſurety of the ſaid partie who requyreth the defender to be delivered vnto him, that juſtice ſhall be duely miniſtrat, and cauſe deliverie of the ſaid perſon be made vnto him. Alwayes the ſaid Commiſſionar of Juſtice at the next Seſſion ſhall certifie the hail matter to the Benche, to th'effect they may inquyre whither juſtice hes accordingly bene miniſtred, and if any default be founden, to advertiſe his Majeſties Councell that order may be tane there-with.

And ordeines the premiſes to be published in Print.

FINIS.